

# **EXHIBIT E**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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INTEGRATED COMMUNICATIONS &  
TECHNOLOGIES, INC., et al.,

Plaintiffs,

v.

HEWLETT-PACKARD FINANCIAL SERVICES  
COMPANY, et al.,

Defendants.

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Civil Action No.  
1:16-cv-10386-LTS

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BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

STATUS CONFERENCE

Friday, September 13, 2019  
2:00 p.m.

John J. Moakley United States Courthouse  
Courtroom No. 13  
One Courthouse Way  
Boston, Massachusetts

Rachel M. Lopez, CRR  
Official Court Reporter  
One Courthouse Way, Suite 5209  
Boston, Massachusetts 02210  
raeufp@gmail.com

**A P P E A R A N C E S**

On behalf of the Plaintiffs:

LAW OFFICE OF DIMITRY JOFFE  
BY: DIMITRY JOFFE  
230 Park Avenue  
10th Floor  
New York, New York 10169  
(212) 309-8711  
dimitry@joffe.law

LAW OFFICE OF JOSH MCGUIRE  
BY: JOSHUA A. MCGUIRE  
51 Winchester Street  
Suite 205  
Newton, Massachusetts 02461  
(617) 461-6400  
josh@joshmcguirelaw.com

On behalf of the Defendants:

GIBBONS, P.C.  
BY: ANTHONY P. CALLAGHAN AND PAUL A. SASO  
One Pennsylvania Plaza  
37th Floor  
New York, New York 10119  
(212) 613-2015  
acallaghan@gibbonslaw.com

CHOATE HALL & STEWART LLP  
BY: MICHAEL H. BUNIS  
Two International Place  
100-150 International Place  
Boston, Massachusetts 02110  
(617) 248-4030  
mbunis@choate.com

1 at Cadwalader, Clifford Chance. And then she's been at this  
2 consulting firm since 2013. It seems like she has a lot of  
3 experience in the area. Does it have to be this person? No.  
4 But this was a person that I met, knew of, was impressed  
5 with, seemed reasonable, and it seems like sensible to have  
6 an impartial or reasonable person to meet with all of you. I  
7 don't think it will be a lengthy or expensive process and  
8 figure out if there isn't some way to bridge the gap. So  
9 that's my thought here if you want to take a look at it now.  
10 You can take those. I don't care.

11 THE DEPUTY CLERK: One copy?

12 THE COURT: It's just one of her CV and her  
13 marketing bio. Those are two separate things. Both of you  
14 can look at them. Comments as to that?

15 One other thing I should disclose to you. I told  
16 her one more thing that I forgot. I also told her that  
17 somewhere along the way, between the beginning of the  
18 relevant events in this case and now, the plaintiffs went  
19 through some sort of change in computer system or e-mail  
20 provider or something like that, and the plaintiffs'  
21 position -- there were certain things that the plaintiffs say  
22 they don't have, because they weren't like -- I think what I  
23 told her was I thought what it was, but I wasn't positive is,  
24 they were employees of the company who then left the company,  
25 for whatever reason, and so, therefore, their e-mails weren't

1 imported over to the new system and you weren't sure that you  
2 necessarily had all of those e-mails anymore. And so there  
3 was an issue about whether there was some -- some things one  
4 ordinarily might think would exist that don't exist and the  
5 plaintiffs' explanation was that's just what happened,  
6 because in the shift along the way, we didn't keep them. And  
7 the plaintiffs -- the defendants wanted some discovery into  
8 that and that was potentially a second sort of discovery  
9 issue. So I did -- that's the only other thing that I told  
10 her, just in the interest of full disclosure.

11 Okay. So thoughts about whether I should do that  
12 or not, or whether you think I should do something else about  
13 this issue, or nothing at all, or anything else related to  
14 the 775,000 pages. And in fairness, because I'm giving this  
15 to you, I'm happy to hear your thoughts now, but if you want  
16 to have a little bit of time to reflect on it, I'm also  
17 prepared to give either or both of you that opportunity.

18 MR. JOFFE: Well, Your Honor, I'm grateful for your  
19 suggestions. I just want to comment on this review that I've  
20 done. And I think defendants will, I believe, reviewed or at  
21 least checked the 56,000 documents that we produced as the  
22 result. Those documents eliminated all the spam and all the  
23 irrelevant materials for sure, because it's not just, you  
24 know, the subject line review.

25 For example, like I could have reviewed everything

1 that's coming from Alibaba, or other sources of that nature.  
2 And if it's something of a continuous, you know, stream of  
3 spam or not necessarily spam, but professional type of  
4 e-mails, that they were not related to the issues at all,  
5 they could have been easily eliminated. All the spam e-mails  
6 that the defendants complained about, I've eliminated all of  
7 that. So the collection of -- substantial collection still,  
8 but the substantial collection of 56 that we've extricated  
9 from the larger 220, I think, 7,000 documents, are clearly  
10 responsive, or at least related closely to the case. So  
11 what's left in the remaining part is all the spam e-mail  
12 that's been eliminated and there were also e-mails --

13 THE COURT: Are you prepared to submit an affidavit  
14 that that's all that is left and the rest is spam?

15 MR. JOFFE: No, I'm prepared to say that there is  
16 no spam in the documents that we produced.

17 THE COURT: Yes.

18 MR. JOFFE: So that collection of 56,000 documents  
19 is responsive. And I was reading the TAR proposal that  
20 defendants were proposing in their reports and they were  
21 saying that TAR, itself, doesn't eliminate everything --

22 THE COURT: Nothing's perfect.

23 MR. JOFFE: Right. It floats the most relevant on  
24 top, and then it leaves the bulk below, where the probability  
25 of finding something relevant is low.

1 THE COURT: So what you would like to do is say --

2 MR. JOFFE: So I did the human TAR. I was the TAR  
3 machine who was essentially doing this. I -- the 56 on top  
4 are the very relevant --

5 THE COURT: How many of the documents did you  
6 actually read?

7 MR. JOFFE: I don't -- hundreds. Hundreds, because  
8 sometimes they appeared -- it's not spam. I wouldn't read  
9 Coke versus Pepsi. And I wouldn't read thousands that come  
10 from Alibaba, or any other -- the company that trades in  
11 computer stuff. They have a lot of e-mails that come from  
12 automated things like that, but if there was something that  
13 could potentially be relevant, though, you know, between --

14 THE COURT: It would be fair to say the number of  
15 documents you read was more than 100 and less than 1,000?

16 MR. JOFFE: It was more than 100.

17 THE COURT: And less than 1,000?

18 MR. JOFFE: That's hard to say, Your Honor. I  
19 can't say.

20 THE COURT: Well, the only reason that I'm asking  
21 is you said hundreds. So ordinarily, I would think of  
22 hundreds as more than 100, but less than 1,000.

23 MR. JOFFE: I would say in the ballpark of 1,000  
24 for sure. Up to 10,000.

25 THE COURT: More or less 10,000?